IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE TWENTY FIRST DAY OF JUNE

TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT APPEAL NO : 500 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 9.1.2004 in W.P.NO.630 OF 2004 on the file of the High Court.)

Between:

The Primary Agricultural Cooperative Society,
Nakarikal, Guntur Dist. Represented by its
Person in charge The Manager ,GDGC Bank Ltd
Santagudipadu Branch Guntur Dist.

..... APPELLANT

AND

1 D.Satyanarayana, son of Subbaiah, aged 50 years,
PAC Secretary , Nakarikal (V & M) Guntur Dist.
2 The District Cooperative Officer Guntur,
Guntur Dist.
3 The Divisional Cooperative Officer, Narasaraopet Division,
Narasaraopet, Guntur Dist.

.....RESPONDENTS

For the Appellant:MR.VENKATESWARLU POSANI

For the Respondent No.: GP FOR COOPERATION

The Court made the following:

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ORAL ORDER: (per G.B.J.)

The order of the learned single Judge in Writ Petition No.630 of 2004 is assailed in this Writ Appeal.

2. The petitioner in the above Writ Petition, (1st respondent herein) claimed subsistence allowance for the period from 6.6.2002 on the ground that he was suspended from service pending enquiry. The learned single Judge accepting the contention of the petitioner that he was placed under suspension from 6.6.2002, directed payment of subsistence allowance. Against the said order, the present Writ Appeal is filed.

3. The learned counsel for the appellant submits that the 1st respondent was never placed under suspension at any point of time, but he himself absconded from duties and therefore the question of placing him under suspension does not arise. Even the resolution passed by the Board has not given effect to and no suspension order has, in fact, been issued by the Society and therefore the payment of subsistence allowance does not arise. He would also submit that the learned single Judge was under impression that the suspension order was issued.

4. The learned counsel for the 1st respondent, however, submits that though no suspension order is issued, the 1st respondent was estopped from attending and discharging his duties.

5. We are afraid we cannot accept the contention raised by the learned counsel for the 1st respondent. Inasmuch as no suspension order has been issued by the Society, the 1st respondent is not entitled for subsistence allowance. Merely passing a resolution

cannot be treated as an order of suspension issued, and in fact the competent authority has not issued order of suspension. Under those circumstances we find that the order of the learned single Judge is not sustainable. Accordingly it is set aside.

6. In the result, the Writ Appeal is allowed and the order of the learned single Judge is set aside. No costs.

(G.BIKSHAPATHY, J.)

21st June, 2004.

(B.SESHASAYANA REDDY, J.)

SSR

Note:Issue copy in two days.

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Copies to

1 The Hon'ble Sri Justice G.Bikshapathy (for His Lordship's kind perusal)

2 The District Cooperative Officer Guntur,
Guntur Dist.

3 The Divisional Cooperative Officer Narasaraopet Division,
Narasaraopet, Guntur Dist.

4. 2 C.Cs. to G.P. for Co-operation, High Court Buildings, Hyderabad. (O.U.T.)

5. 2 CD copies.